

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than **15 days prior to the close of the written comment period**. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person by **5:00 p.m. on January 15, 2007**. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407, 9562, 9570, 10324, 10327 and 10781 of the Food and Agricultural Code, and to implement, interpret or make specific sections 9562, 10327 and 10781 of said Code, the Department proposes to amend section 752 of Article 1.5, Chapter 2; 796.6 of Article 8.5 of Chapter 2; and 1301 of Article 3 of Chapter 7, Division 2, of Title 3 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

1) BOVINE BRUCELLOSIS:

Food and Agricultural Code section 10327 authorizes the Director of the Department to establish the conditions for the movement of female dairy cattle as evident through calfhood vaccination or other tests to prevent outbreaks and the spread of bovine brucellosis. In compliance with section 10327, the Department has in place existing bovine brucellosis regulations under Article 1.5 (Bovine Brucellosis) of Chapter 2, Division 2, of Title 3 of the California Code of Regulations.

This proposal amends section 752 (Vaccine, Vaccination, and Test Reagents) of Article 1.5 to update the vaccination age of female dairy heifers age for consistency with the vaccine manufacturers recommendation.

2) INTERSTATE MOVEMENT OF SWINE FOR IMMEDIATE SLAUGHTER:

Food and Agricultural Code section 10781 authorizes the Director of the Department to adopt regulations to control swine diseases through limitations on their movement into and within California. In compliance with section 10781, the Department has in place existing swine movement regulations under Article 8.5 (Interstate and

Intrastate Movement of Swine) of Chapter 2, Division 2, of Title 3 of the California Code of Regulations.

This proposal amends section 796.6 (Movement of Swine into California for Immediate Slaughter) of Article 8.5 to require an Interstate Livestock Entry Permit when the State Veterinarian determines a risk exists with the importation of swine into California.

3) QUARANTINE:

Food and Agricultural Code section 9562 authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans. In compliance with section 9562, the Department has in place existing quarantine regulations under Article 3 (Quarantine) of Chapter 7, Division 2, of Title 3 of the California Code of Regulations.

This proposal adds a definition to section 1301 (Definitions) of Article 3 to enhance the use of professional judgment, as delegated by the State Veterinarian, to determine when a population of animals may carry a disease.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Department has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. This proposal pertains to the vaccination age of female dairy cattle, removes the requirement to obtain an Interstate Livestock Entry Permit for slaughter swine entering California, and clarifies the Department's interpretation of the term "may carry" as referenced in Food and Agricultural Code section 9562. This proposal imposes the following paperwork, recordkeeping and reporting requirements upon businesses:

- 1) Paperwork: This proposal contains paperwork requirements consisting of brucellosis vaccine used for brucellosis calfhood vaccination, and eartags used for identifying vaccinated cattle. All female beef and dairy cattle are required to be vaccinated for brucellosis and shall maintain an identification eartag and tattoo declaring the animal as a vaccinated animal. This proposal amends the age at

which vaccination is required for dairy cattle. This change will not have an affect on existing costs for vaccinating and identifying cattle.

2) Record Keeping: This proposal does not contain a record keeping requirement. However, veterinarians vaccinating cattle against brucellosis are required to report specified information to the Department. Information required to be reported is maintained by the Department for purposes of tracing animals in the event of a disease outbreak. Veterinarians may keep records of vaccinations conducted by their businesses, and persons owning cattle may also keep copies of these records. These processes could therefore be considered a record.

3) Reporting: This proposal contains reporting requirement consisting of the use of all vaccines for brucellosis calfhoo vaccination and eartags used for identification. Costs for compliance with this requirement are existing costs; the proposed change of vaccination age would not have any affect on these existing costs.

In making these determinations, the Department has not considered alternatives that would lessen any adverse economic impact on businesses and invites the public to submit such proposals during the written comment period. Submissions may include the following considerations:

- The establishment of differing compliance, reporting requirements or timetables that take into account the resources available to businesses.
- The consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Private Persons or Entities: The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Department are:

1) Paperwork: This proposal contains paperwork requirements consisting of brucellosis vaccine used for brucellosis calfhoo vaccination, and eartags used for identifying vaccinated cattle. All female beef and dairy cattle are required to be vaccinated for brucellosis and shall maintain an identification eartag and tattoo declaring the animal as a vaccinated animal. This proposal amends the age at which vaccination is required for dairy cattle. This change will not have an affect on existing costs for vaccinating and identifying cattle.

2) Record Keeping: This proposal does not contain a record keeping requirement. However, veterinarians vaccinating cattle against brucellosis are required to report specified information to the Department. Information required to be reported is maintained by the Department for purposes of tracing animals in the event of a disease outbreak. Veterinarians may keep records of vaccinations conducted by

their businesses, and persons owning cattle may also keep copies of these records. These processes could therefore be considered a record.

3) Reporting: This proposal contains reporting requirement consisting of the use of all vaccines for brucellosis calfhood vaccination and eartags used for identification. Costs for compliance with this requirement are existing costs; the proposed change of vaccination age would not have any affect on these existing costs.

Effect on Housing Costs: None

Finding of Necessity for Report: The Department finds that it is necessary for the health, safety, and general welfare of the people of the State that this regulation requiring a report applies to businesses.

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Department of Food and Agriculture must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing (if a hearing is requested from the public), or during the public comment period.

INITIAL STATEMENT OF REASONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A-114, Sacramento, CA 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquires concerning the substance of the proposed regulations is to be addressed to the following:

Name: Anita J. Edmondson, BVM&S, MPVM, MRCVS
Address: Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 651-9135
Fax No.: (916) 653-4249
E-mail address: aedmondson@cdfa.ca.gov

The backup contact person is:

Name: Thami Rodgers, Associate Analyst
Address: Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 698-3276
Fax No.: (916) 653-4249
E-mail address: trodgers@cdfa.ca.gov

Written comments, facsimiles or e-mails regarding this proposal are to be addressed to the following:

Name: Thami Rodgers, Associate Analyst
Address: Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 698-3276
Fax No.: (916) 653-4249
E-mail address: trodgers@cdfa.ca.gov

Website Access: Materials regarding this proposal can be found at www.cdfa.ca.gov